

1F1001
(3)

IN THE HIGH COURT OF CHHATTISGARH
AT BILASPUR

WRIT PETITION NO. 3626 /04

PETITIONER

Ramesh Pradhan S/o Shri Peel
Lal Pradhan, aged about 41 Yrs.
Sarpanch Gram Panchayat -
Nawapara (B), R/o Nawapara,
Block - Pusaur, Tah. And
Distt. - Raigarh (Chhattisgarh)

P.R. No. 3499/04
Presented by Shri. K. D. Nande
dated 24/9/07

VERSUS

RESPONDENTS

RECEIVED COPY
24/9/07
Sent to A. G. Bilaspur



1. The State of Chhattisgarh,
through : the Secretary,
Department of Panchayat,
D.K.S. Bhawan, Mantralay,
Raipur (Chhattisgarh)
2. The Director Panchayat Raipur
Distt. Raipur (C.G.)
3. The Collector, Raigarh,
Distt. Raigarh (C.G.)

WRIT PETITION UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA

MAY IT BE PLEASE TO YOUR LORDSHIP

01) PARTICULARS ABOUT THE PETITIONER.

As shown above in the cause title.

02) PARTICULARS OF THE RESPONDENTS

As per the cause title.

आदेश पत्रक

मामला क्रमांक

W.P.NO. 3626/2004
सन् 2004

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	17.12.2004 Shri K.N.Nande, counsel for the petitioner. Shri Sanjay S Agrawal, Government Advocate for the State. Petitioner was duly elected Sarpanch of Gram Panchayat Navapara. After due enquiry, the Collector Raigarh vide order dated 22.04.2004 declared him disqualified for holding the post of Sarpanch. That order has been challenged by the petitioner in appeal and the appellate authority - Director Panchayat vide order dated 04.09.2004 affirming the order of the Collector, dismissed the appeal. Petitioner was disqualified only on the ground that he has four living children and out of them, one was born after the 26th day of January 2001. Section 36 (1) (m) of the Chhattisgarh Panchayatraj Adhiniyam, 1993 reads as under: 36. "Disqualification for being office bearer of Panchayat. - (1) No person shall be eligible to be an office-bearer of Panchayat who - XXXXX XXXXX XXXXX XXXXX (m) has more than two living children one of whom is born on or after the 26th day of January, 2001". Petitioner's contention is that his wife got operated Bilateral Tubal Lisesion (BTL) for family planning on 21.04.2002. But despite that operation, she became pregnant and gave birth to a child after the 26th day of January 2001. As taking birth of a child after that operation dated 21.04.2002 was	

[पीछे देखिये]

आदेश पत्रक

मामला क्रमांक

LD 3626/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 2 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	not in the control of the petitioner, hence as an exceptional case, the provisions referred to above are not applicable to him. For the purpose of family planning, a number of methods have been introduced and out of those, the wife of the petitioner has followed one. None of these methods completely assures that after following them, pregnancy will never take place. These methods are only preventive in nature. Chhattisgarh Panchayat Raj Adhiniyam does not make any exception to such contingencies, therefore, when the law is there, that has to be obeyed and followed. The admission of the petitioner himself that he has four living children and out of them one child took birth after the 26th day of January 2001; clearly establishes that he was disqualified to hold the office of Sarpanch and in arriving at the same conclusion, both the Courts below i.e. Collector Raigarh and the appellate authority - Director Panchayat did not commit any error. Orders passed by both the authorities are according to law, therefore, no interference is called for. Accordingly, the Writ petition filed by the petitioner is liable to be dismissed and is dismissed.	Sd/- V.K. Shrivastava Judge

[पाठ्य देखिये]